

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Enterasys Networks, Inc.,
et al.

v.

Case No. 04-cv-209-PB

DNPG, et al.

O R D E R

The Magistrate Judge's decision that fees should be awarded is not clearly erroneous or contrary to law. Even if I accept defendants' view of the relevant law, the Magistrate Judge's conclusion that defendants were not substantially justified in withholding the returns in issue is not clearly erroneous. The nature of this dispute makes the returns relevant and the record does not demonstrate that the information that makes the returns relevant could have been obtained from other sources. The Magistrate Judge could well have concluded on this record that defendants were not justified in their asserted belief that they were entitled to withhold the returns. The Magistrate Judge's order awarding fees is affirmed.

SO ORDERED.

/s/Paul Barbadoro
Paul Barbadoro
United States District Judge

March 7, 2006

cc: Christopher H.M. Carter, Esq.
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